

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DeMARCO MANTELL BIRCH, )  
                                  )  
                                  )  
Petitioner,                )  
                                  )  
                                  )  
-vs-                         ) Case No. CIV-19-0313-F  
                                  )  
                                  )  
JAMES A. YATES, Warden,    )  
                                  )  
                                  )  
Respondent.                )

**ORDER**

Petitioner DeMarco Mantell Birch, a state prisoner appearing *pro se*, brings this action pursuant to 28 U.S.C. § 2254. Before the court is a Report and Recommendation of April 16, 2019 (the Report, doc. no. 6), submitted by Magistrate Judge Suzanne Mitchell following preliminary review of the petition under Rule 4 of the Rules Governing Section 2254 Cases. The Report finds that the United States District Court for the Western District of Oklahoma lacks jurisdiction over this action and recommends transfer of this action to the United States District Court for the Northern District of Oklahoma pursuant to 28 U.S.C. § 1631. The Report advises petitioner that he may file an objection to the Report. No objection was filed and no request for an extension of time within which to object was filed.

After review, and with there being no objection, the court agrees with the Magistrate Judge that this action should be transferred to the United States District Court for the Northern District of Oklahoma. Accordingly, the Report and Recommendation is **ACCEPTED** and **AFFIRMED**. Doc. no. 6. As recommended in the Report, this action is hereby **TRANSFERRED** to the United States District

Court for the Northern District of Oklahoma for all further proceedings, including for disposition of petitioner's outstanding motions at doc. nos. 2 and 3.

IT IS SO ORDERED this 21<sup>st</sup> day of May, 2019.



STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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